

REMARKS

Reconsideration of the application, as amended, is respectfully requested. In addition, Applicants acknowledge with appreciation the Examiner's indication in the instant Office Action that claims 27-34 have been allowed. No additional fees are believed to be due for extension or extra claims fees. However, if any fees are due, the Commissioner of Patents is authorized to charge my deposit no. 11-1152.

I. STATUS OF CLAIMS

Claims 25-39 are pending in this application. Claims 27-34 have been allowed. Claims 25 and 35 have been amended to more particularly point out and distinctly claim that which applicants regard as their invention. It is respectfully submitted that no new matter has been added by virtue of this amendment. Support for the amended claims are found throughout the specification as originally filed.

II. REJECTIONS UNDER 35 U.S.C. § 112, Second Paragraph

Claims 25-26 were rejected by the Examiner under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regards as the invention.

Specifically, the Examiner rejected claim 25 on the grounds that the phrase "the swipe card operatively coupled to the microprocessor" renders the claim indefinite. According to the Examiner, "a swipe card does not appear to be coupled to anything, it is unclear if applicants intended to claim that a swipe card reader was coupled to the microprocessor."

In response, claim 25 has been amended herewith to clarify that the "swipe card reader" is operatively coupled to the microprocessor.

In view of the above action taken, it is believed that the rejection to independent claim 25 has been obviated. Accordingly, the rejection to claim 26 which depends from claim 25 is likewise overcome.

III. 35 U.S.C. § 103(a)

The Examiner rejected claims 35 and 37-39 under 35 U.S.C. § 103(a) as being unpatentable over WO 95/30973 to Broadfield ("the Broadfield publication"). Further, the Examiner objected to claim 36 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

According to the Examiner, the Broadfield publication discloses an amusement device containing most of the features of the above claims, including a body, a microprocessor operatively coupled to a motor and configured to actuate the motor to propel an action, a shape-specific key receiving device, a swipe card reader operatively coupled to a microprocessor and at least two movable elements movably coupled to the body. The Examiner further alleges that couplings attaching Broadfield's hydraulic elements are inherent in the Broadfield device because without them its device would not function. In addition, according to Examiner, the body and device of the Broadfield publication is reconfigurable "...since the device moves up and down the different position provide different configurations of the device."

The Examiner concedes that the Broadfield publication fails to teach a motor associated with a body as required by the above claims. However, the Examiner took the position that it would have been obvious to one skilled in the art to provide a motor for the purpose of actuating the hydraulic elements 3 and 4 of the Broadfield publication. The Examiner took official notice that the use of a motor for actuation of hydraulic elements is well known in the art.

In response, it is respectfully asserted that the Broadfield publication fails to teach or suggest the amusement apparatus as recited in claim 35, as amended.

Specifically, the Broadfield publication purports to disclose an amusement apparatus which comprises a station, typically a seat or bench on which a person may sit, facing visual display means. The visual display means is operated by a financial transaction means, e.g. by means of a coin slot or card swipe, which also causes an article such as a child's toy or the like, to be vended. In a preferred embodiment, completing the financial transaction also causes the station to be driven along a predetermined path to provide an amusement ride.

However, the Broadfield publication at the very least fails to teach or suggest "...a swipe card reader adapted to receive enhancement data from a swipe card and to transmit the enhancement data to the microprocessor, wherein the enhancement data is adapted to provide an enhanced function of the apparatus.", as recited in claim 35, as amended. Namely, the debit/credit card swipe reader of the Broadfield publication does not read or receive enhancement data from a swipe card, but rather the swipe card reader of Broadfield is limited to reading or receiving financial information only. This financial information in no way enhances the functioning of the device in Broadfield, as required by claim 35, as amended. Rather, in Broadfield the financial information activates the microprocessor to cause the device to perform predetermined visual displays and movements already programmed into the microprocessor but does not provide enhanced functioning of the device. Accordingly, the Broadfield publication at the very least fails to teach or suggest a swipe card reader which is adapted to receive enhancement data from a swipe card, as recited in claim 35, as amended.

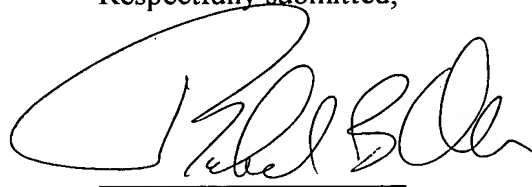
For the reasons set forth herein above, withdrawal of the rejection of claim 35 is respectfully requested. As claims 36-39 depend from and incorporate the limitations of independent claim 35, withdrawal of the above noted rejections and/or objections to these claims is also requested.

IV. CONCLUSION

In view of the actions taken and arguments made it is believed that all pending claims as currently presented are now in condition for allowance. A Notice of Allowance is respectfully requested.

According to currently recommended Patent Office policy, the Examiner is requested to contact the undersigned at the telephone number provided below in the event that a telephone interview will advance the prosecution of this application. An early and favorable action is earnestly solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Richard B. Klar', written over a horizontal line.

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